Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair
SUBCOMMITTEE NO. 1 on Education

<u>Subcommittee No. 1</u>
Chair, Jack Scott
Member, Bob Margett
Member, Gloria Romero

Agenda
April 22, 2007
1:30 p.m. - Room 113

I. Child Care

A. Background. Under current law, the state makes subsidized child care services available to: (1) families on public assistance and participating in work or job readiness programs; (2) families transitioning off public assistance programs; and (3) other families with exceptional financial need.

Child care services provided within the California Work Opportunity and Responsibility to Kids (CalWORKs) program are administered by both the California Department of Social Services and the State Department of Education (SDE), depending upon the "stage" of public assistance or transition the family is in. Stage 1 child care services are administered by the DSS for families currently receiving public assistance, while Stages 2 and 3 are administered by the SDE.

Families receiving Stage 2 child care services are either receiving a cash public assistance payment (and are deemed "stabilized") or are in a two-year transitional period after leaving cash assistance; child care for this population is an entitlement for two years under current law. The State allows counties flexibility in determining whether a CalWORKS family has been "stabilized" for purposes of assigning the family to either Stage 1 or Stage 2 child care. Depending on the county, some families may be transitioned to Stage 2 within the first six months of their time on aid, while in other counties a family may stay in Stage 1 until they leave aid entirely.

Families receiving Stage 3 child care services have exhausted their two-year Stage 2 entitlement. The availability of Stage 3 care is discretionary and contingent upon the amount of funding appropriated for the program in the annual Budget Act. Subsidized child care is also available on a limited basis for families who have never been on public assistance, but who exhibit exceptional financial need. Under current practice, services for these two populations are supplied by the same group of child care providers; however, waiting lists, while consolidated, grant priority to the former CalWORKs recipients.

Child Care is provided through either licensed child care centers or the Alternative Payment Program.

- *Child Care Centers* receive direct funding from the state, which pays for a fixed number of child care "slots." Centers provide an educational component that is developmentally, culturally, and linguistically appropriate for the children served. Centers also provide nutrition education, parent education, staff development, and referrals for health and social services programs. In many areas of the State, there are no available "slots" in licensed Child Care Centers or Family Day Care Centers and families are limited to the use of license-exempt care (kith and kin).

- *Alternative Payment Programs (APs)* act as an intermediary between the SDE, provider, and family to provide child care through means-tested vouchers. Vouchers provide funding for a specific child to obtain care in a licensed child care center, licensed family day care home, or license-exempt care (kith and kin). With a voucher, the family has the choice of which type of care to utilize.

B. Governor's Proposal. The Governor's Budget provides the SDE with approximately $3.1 billion to support approximately 828,082 children in the state's subsidized child care, After School, and Preschool systems. The proposed amount represents a decrease of approximately $209 million from current-level expenditures. Of the amount proposed for all child development programs at SDE, 29 percent of the funding will be spent on current and former CalWORKs recipients.

The Governor's Budget does not include any additional funding for either Cost-of-Living-Adjustments (COLAs) or enrollment/caseload growth in non-CalWORKs child development programs. Growth adjustments in the CalWORKs child care programs are based and funded on actual CalWORKs caseload adjustments, which are coordinated between the DSS and SDE; these caseloads will be updated at the May Revision.

California Child Care and Development Programs

2008-09 All Funds (Dollars in Millions)

Program[a]	2007-08	Proposed 2008-09	Change	
			Amount	Percent
CalWORKs[b] Child Care:				
Stage 1[c, d]	$511	$554	$43	8.4%
Stage 2[d, e]	489	497	8	1.5
Stage 3	405	420	15	3.8
Subtotals	($1,405)	($1,471)	($66)	(4.7%)
Non-CalWORKs[b] Child Care:				
General child care	$805	$753	-$52	-6.5%
Other child care programs	336	313	-24	-6.8
Subtotals	($1,141)	($1,066)	(-$75)	(-6.6%)
State Preschool	$442	$413	-$29	-6.6%
Support Services	$106	$100	-$6	-6.0%
Totals—All Programs	**$3,094**	**$3,050**	**-$43**	**-1.4%**

[a] Except where noted otherwise, all programs are administered by the State Department of Education.
[b] California Work Opportunity and Responsibility to Kids.
[c] Administered by California Department of Social Services.
[d] Does not include reserve funding.
[e] Includes funding for centers run by California Community Colleges.

Following are the child care issues contained in the Governor's Budget:

1. Budget Balancing Reductions. The Governor's proposal includes across-the-board reductions of 6.4 percent (compared with the current year) to non-CalWORKs child care programs, including General Child Care, State Preschool, Alternative Payment Programs, as well as supportive services such as Resource and Referral services and the coordination of Centralized Eligibility Lists.

   The Department of Finance estimates that the proposed reductions will result in the loss of approximately 10,000 slots across the various non-CalWORKS child care and Preschool programs. The LAO notes that this number is a full-time equivalent number which does not translate into 10,000 actual children since slots frequently remain vacant for a portion of the year as new family's eligibility is verified. It is unclear how these cuts will impact the contracts of individual providers and whether they will be evenly dispersed throughout the geographic regions of the state. While the reductions in supportive services also equate to approximately 6.4 percent, the cuts will not result in the loss of direct child care slots.

   Both the LAO and the Administration contend that due to the large amounts of carryover (unspent) funds that occur annually within these programs, it is highly unlikely that any child currently receiving care would be denied services under the Governor's proposal (unless the family's income exceeds the thresholds, as outlined below).

   Staff recommends that "action on these reductions be held open pending the May Revision."

2. Freezing of State Median Income. The Governor proposes Budget Bill Language which would freeze the income eligibility levels for families participating in the state's child care programs at current 2007-08 levels. Current law sets the income threshold for subsidized child care services at 75 percent of the State Median Income (SMI).

   In the current year, 75 percent of the State Median Income (SMI) equates to $50,256 per year ($4,188 per month) for a family of four. The Governor's proposal to "freeze" the SMI means that the income threshold for participation in the program would not increase above this limit in 2008-09.

   Given that: (1) the demand for child care services exceeds the number of available subsidized slots, and (2) individuals with the lowest income receive first priority for child care services, freezing the SMI has the practical effect of disqualifying families at the higher end of the income spectrum ($50,000) should their income increase beyond the above-noted threshold. The slot/s they vacate would then be filled by a family at the lowest income range.

   Staff notes that, while the freeze will have an adverse impact in high cost regions, in a year when the availability of funds to support child care services statewide will likely be unable to keep pace with the demand for such services, the committee should consider rationing child care based on family income, as defined by the State Median Income.

As such, staff recommends that the committee "Approve Budget Bill Language freezing the State Median Income, as proposed by the Governor."

3. Certifying Eligibility under "Penalty of Perjury." The Governor's proposal includes Budget Bill language requiring applicants for subsidized child care (as they become placed on the Centralized Eligibility List) to "certify in writing under *penalty of perjury* that they meet the eligibility and need requirements for subsidized child care as set forth in Section 8263 and 8263.1 of the Education Code."

   Staff notes that, while this language represents the Administration's attempt to reduce the income verification problems inherent in the lowest income tiers, it is overly punitive, and in many cases duplicative of current practices, whereby applicants applying for the wait list are required to affirm in some fashion that the information they have submitted is "true to the best of their knowledge." Further, the language applies to individuals as they are placed on the Centralized Eligibility List. Once the applicant is actually chosen from the list to receive services, they undergo an extensive application process at which point they must "certify under penalty of perjury" that their information is correct.

   Finally, eligibility requirements for subsidized child care services are complicated; the income and financial need thresholds change, and an individual's income is likely to change as well. To require an individual simply applying to be on a waiting list to certify "under penalty of perjury" carries a threat, and implies that if they misreport it is with intent. Thus the language could have the consequence of deterring individuals from applying for services.

   Staff recommends that the committee "Delete the proposed language from the Budget Bill and request that the LAO examine no- or low-cost alternatives for either providing assistance to, and/or additional income verification for, individuals applying for subsidized child care services."

4. Standard Reimbursement Rate (Informational Item). Currently, the state funds child care programs through two main mechanisms: vouchers to families and direct contracts with providers. For certain child care centers (those that comply with Title V regulatory standards) and preschools, SDE contracts directly with over 750 agencies via 1,300 different contractual agreements. These providers are reimbursed for services at a standard rate known as the Standard Reimbursement Rate (SRR). The SRR is adjusted for factors such as the age or special needs of the child. The SRR is usually increased by the COLA factor annually, and advocates have long sought increases in the rate in excess of the COLA calculation. Given that the Governor's Budget does not include funds for a COLA, these rates are not proposed to be increased for 2008-09, and as such, will stay at the current-year rate of $34.38 per child per day for full-day care and $21.22 per child for half-day preschool.

   Staff notes that, it is generally acknowledged that the SRR is extremely low. In some regions (approximately 16 counties, including predominately "high cost" counties), the SRR is below the rates provided to licensed family child care homes, even though these direct-contracted centers must meet higher regulatory standards. Legislation seeking to partially address this issue (Senate Bill 1410, Corbett) is currently working its way through the legislative process. However, staff further notes that, the current fiscal condition of the state will likely preclude either this committee or any other fiscal committee of the Legislature from appropriating the funds necessary to increase the SRR.

5. Implementation of Regional Market Rate Increase (Informational Item). Approximately 70 percent of the children in state-subsidized child care are served through a voucher system, which are provided to families through the Alternative Payment Program (APs). Families may use vouchers for care in: licensed centers, licensed family child care homes, and license-exempt care (kith and kin).

   Licensed providers (the first two mentioned above) are reimbursed for services up to a maximum of 85 percent of the rate charged by private market providers for the same service in the same region. The state determines what the private market pays through an annual Regional Market Rate (RMR) survey of public and private child care providers. New regional maximum rates are posted in October and providers may adjust their rates for voucher clients after that time. License-exempt providers are reimbursed up to 90 percent of the amount paid to licensed providers in the same region.

   The Governor's Budget assumes that the new RMR rate increases go into effect in 2008-09 by increasing the average cost of care for the CalWORKs child care; however, no additional monies are included to fund the rate increase for the other child care programs. Rather, the Administration assumes fewer child care slots to offset the increased costs associated with the rate increase.

   Staff notes, if the new rates are to go into effect by the beginning of the 2008-09 fiscal year, the Department of Finance will need to approve the RMR increase plan by May 1, 2008. As of yet, that plan has yet to be approved.

C. Dysfunctional Contracting Process (Informational Item). For each of the past five fiscal years, at least $200 million of the state's child care appropriation has gone unspent, and has instead been rolled over into the next fiscal year and used to fund the ongoing needs of the program. In short, we consistently fund approximately ten to 12 percent of the child care budget with one-time dollars.

   Funds could go unspent for the following reasons:

   Un-obligated Funds. SDE is unable to contract for the full amount of the Budget Act appropriation, either due to a cumbersome Request for Applications (RFA) process, a lack of interest or lack of need on behalf of providers, or staffing issues at SDE.

   Unearned Contracts. Providers are unable to fully-expend the amounts included in their contractual agreements with the state, either because they did not serve the *exact* number of children specified, or they had delays or difficulties in filling empty slots as children exited the program. Given that providers are *not* provided additional payment if they serve more children than their contract allows, they almost always err on the side of caution and under spend their contracts.

Given that the non-CalWORKs programs are not entitlements, the state simply serves as many children as the budget allows. However, within the CalWORKs child care programs, the state is concerned about ensuring that both the caseload data and the estimates of the cost of child care services are accurate as we move forward.

The LAO recommends that the Legislature continue to actively explore contracting issues and develop a multi-faceted approach to aligning annual expenditures to the fiscal year appropriation.

D. Perennial Legislative Child Care Issues. The Legislature has annually deleted, revised, or adopted new language in the budget bill related to such issues as child care administrative contracting allowances, the development of expenditure plans for federal funds, and the expression of Legislative intent related to the funding of child care services for CalWORKs Stage 3 recipients. Following are the issues of a recurring nature:

1. Administrative Cost Allowance.

The Governor's budget proposes to reduce the amount of funding that Alternative Payment Providers may spend on administrative and support services costs by one percent (from 20 percent, as has been established in prior year Budget Acts, to 19 percent, as effectuated by current statute). Current law (Education Code Section 8223) stipulates that costs for administrative and support services may not exceed 23.5 percent of "the direct cost of care payments" to child care providers. For all intents and purposes, this calculation equates to a rate of 19 percent of the total contract amount.

For a number of years, providers have expressed concern with the above-noted statutory provisions, and the Legislature has consistently adopted alternative language in the Budget Bill overriding current statute. The alternative language limits administrative and support service costs to "no more than 20 percent of the total contract amount."

Current statute appears to create two issues that the language previously adopted by the Legislature sought to remedy: (1) since the percentage is computed off "cost of care," the calculation results in less dollars (1 percent less) being provided for administration/support services than would otherwise be provided under a 20 percent flat rate; and (2) providers do not receive these administrative allowances up front. Rather, the dollars are allocated based on the reimbursement cycle, thus, providers have to wait to receive their administrative dollars, which frequently does not occur until late in the fiscal year. Further, the pending implementation of the new Regional Market Rate will presumably result in additional administrative burdens for APs, especially if the new rates are not adopted sufficiently in advance of the beginning of the fiscal year. Under this scenario, AP agencies will have to recalculate all of their provider payments after the fiscal year is already under way.

Staff recommends that the committee: "Hold this issue open, pending the May Revision and a better understanding of the child care caseload estimates, at which point the committee will be able to better assess issues related to funding administration and support services costs."

2. Federal Child Care and Development Funds State Expenditure Plan.

Background. Federal law requires the state to submit a Statewide Plan outlining how California intends to spend federal Child Care Development Funds (CCDF). SDE submits such a plan every other year. The plan's preparation and review process has traditionally been outlined in Budget Bill language, which was changed last year after a request by advocates. SDE, the Department of Finance, LAO, and child care advocates all agreed to the new language, which broadens the process to include public hearings on the entire statewide CCDF expenditure plan, requires reports to the appropriate Legislative committees, and specifies the length of the public hearing process to better allow public input on the development of the state's expenditure plan. The Governor's Budget proposes language that differs from that adopted for 2007-08. Staff recommends that the 2007-08 language be continued into 2008-09.

Staff recommends that the committee: "Adopt language in the Education Trailer Bill, as follows:"

"*As required by federal law*, the State Department of Education (SDE) shall develop an expenditure plan that sets forth ~~the proposed state and local activities to improve child care and~~ the *final* priorities for child care ~~including the reasons therefore, to be undertaken in the 2009-10 fiscal year~~. The SDE shall coordinate with the DSS, the California Children and Families Commission, and other stakeholders, *including the Department of Finance*, to develop the ~~biennial~~ Child Care Development Fund (CCDF) Plan. By February 1 of the year the CCDF Plan is due to the federal government, SDE shall release a draft of the plan. It shall then commence a 30-day comment period that shall include at least one hearing and the opportunity for written comments. SDE shall provide the revised CCDF Plan to the ~~Department of Finance for review and approval.~~ *chairperson of the committee of each house of the Legislature that considers appropriations* ~~Upon approval, the SDE and shall submit~~ and shall provide a report on the plan to the ~~fiscal committees of each house of the legislature~~ *committee in each house of the Legislature that considers the annual Budget Act appropriation, prior to the May budget revision.*"

3. Intent Language: Stage 3 CalWORKs Child Care Services. The Legislature annually adopts language in the Budget Bill stating its intent to "fully fund the third stage of child care for former CalWORKs recipients."

Staff notes that, this language is annually placed in the Budget Act as a reminder of the Legislature's priority to serve former CalWORKs recipients in the face of scare resources, and the Budget Bill provides a prominent and visible reminder of this commitment. As such, staff recommends that the committee: "Adopt intent language related to funding CalWORKs Stage 3 Child Care services."

II. State Preschool Program

A. Background. The State Department of Education (SDE) administers state preschool programs for 3- to 5-year old children from low-income families. These pre-kindergarten educational programs focus on early childhood education and enrichment and generally last for three hours. In the 2006-07 fiscal year, the preschool services were dramatically expanded (by $50 million) with funds earmarked in the Budget Act but appropriated by Chapter 211, Statutes of 2006. The expansion added approximately 12,000 slots, bringing total participation to approximately 110,000 children. The LAO finds that the demand for state supported preschool far outweighs the capacity -- approximately 40,000 children who meet eligibility requirements for state preschool are on SDE waiting lists.

State preschool providers contract directly with SDE and are reimbursed using a Standard Reimbursement Rate (SRR) which is established in the annual Budget Act (as discussed earlier in this agenda, the Governor proposed this rate be retained at the 2007-08 level of $21.12 per child per day).

B. Pre-Kindergarten and Family Literacy Program.

While the 2006 Budget Act appropriated $50 million in preschool expansion, Chapter 211, Statutes of 2006, provided the statutory framework for the expenditure of these funds. Rather than simply expanding the existing state preschool program, Chapter 211 sought to appropriate the funds in a more targeted manner, by establishing the new *Pre-Kindergarten and Family Literacy Program (PKFL).* This new PKFL program expanded state preschool, added a "wrap around" care component, which seeks to bridge preschool programs with child care programs in order to provide a full day's worth of care, and included a variety of additional eligibility criteria not otherwise included in the existing State Preschool program. The chart on the next page (provided by the Legislative Analyst) outlines the differences between the existing State Preschool program and the new PKFL program.

Standard System	Chapter 211 (PKFL) System
Eligibility	
Age: Three and four year olds. 10 percent of participants may be older.	***Age:*** One year prior to enrollment in Kindergarten.
Participation: Two-year maximum.	***Participation:*** One-year maximum.
Income: Families must earn less than 75 percent of State Median Income (SMI). 10 percent of participants may earn more after initial enrollment.	***Income:*** Families must earn less than 75 percent of SMI. 20 percent of participants may earn more at initial enrollment.
Location: Statewide.	***Location:*** Provider must be located in the enrollment area of an elementary school ranked in bottom three deciles of the Academic Performance Index.
Program Details	
Preschool Minimum Day/Year: 3 hours per day and 175 days per year.	***Preschool Minimum Day/Year:*** "Part-day" not defined. 175-180 days per year.
Wrap Around Minimum Day/Year: 6.5 hours per day. Number of days per year depends on contract.	***Wrap Around Minimum Day/Year:*** Minimum hours per day not specifically defined. Minimum of 246 days per year.
Preschool Curriculum: Includes education, nutrition, health and social services.	***Preschool Curriculum:*** Same as state preschool with added requirement of parental involvement and education.
Wrap Around Standards: Must comply with all Title V child care requirements.	***Wrap Around Standards:*** Same as standard system.
Funding (Proposed 2007-08 Rates)	
Preschool Rate: $21.12 per day per child.	***Preschool Rate:*** Same per child rates as standard. $2,500 per classroom per year.
Wrap Around Rate: $13.10 per day per child.	***Wrap Around Rate:*** Same as standard system.

1. "Wrap Around" Care Proposal. The Governor's Budget includes $4.7 million in ongoing funds to bridge preschool services with state-subsidized child care services - two systems which have struggled to successfully link. Consistent with other child development *budget balancing reductions*, this amount represents a six percent reduction from the sum that was previously provided for this program. Anecdotally, a major barrier for low-income family participation in state preschool has been the part-day nature of the program when families are in need of full-day care. As a result, Chapter 211, Statutes of 2006 sought to address this issue by providing funding specifically for this purpose. However, the $4.7 million for wrap around care is linked directly with the PKFL program. This is the same proposal presented by the Governor, and rejected by the Legislature, for the 2007-08 Budget. Last year, the Legislature determined that the wrap around funds should be available for use by all preschool attendees, not just those participating in the PKFL program and amended the Budget Bill to specify this change. In response, the Governor vetoed all $5 million of the money that was set aside for this purpose. The vetoed funds were eventually restored with the condition that the funds be *prioritized* for children enrolled in the PKFL program (Chapter 489, Statutes of 2007).

Staff recommends that this issue "be held open pending the May Revision."

III. After-School Programs

A. Background. The state makes Before- and After-School Programs available to children statewide with funding provided by both the General Fund (through the After School Education and Safety Program) and the federal government (via the 21st Century Community Learning Centers Program).

In 2002, the voters approved Proposition 49 to increase the amount of state support available to Before- and After-School Programs. After several years of failing to meet the state General Fund revenue "trigger" contained in the initiative, the provisions of Proposition 49 went into effect in the 2006-07 fiscal year. This had the effect of requiring the state to quadruple (in a single year) the amount of funding it expends on state-funded After School Programs.

In the current year, the state is spending $546.9 million General Fund to support After-School Programs and the federal government is providing the state with $125.3 million for a similar purpose. As a condition of Proposition 49, the State funds are "continuously appropriated" and thus *not appropriated in the annual Budget Act*. Federal funds (for the 21st Century Learning Centers Program) *are* appropriated annually in the Budget Act.

Staff notes that, statutory changes enacted by the Legislature during the recent 2008 Special Session altered the definition of "continuous appropriation" for purposes of Proposition 49 to mean that funds are available for encumbrance for one year, with two additional years to liquidate said encumbrances.

B. Prior-Year Savings. Under the recent statutory change, the Legislature is now able to capture prior-year savings (unspent funds) from Proposition 49, something it was unable to accomplish before now. While SDE indicates that final numbers regarding the amount of prior-year funds available for reversion will not be available until the end of the April, the LAO estimates that the dollars will climb upwards of $150 million (for both the 2006-07 and 2007-08 fiscal years), and could be as high as $400 million.

C. Budget Balancing Reductions. The Governor's 2008-09 budget proposal would make a variety of changes to the After School Program, including reducing the base funding level for 2008-09 by $60 million (consistent with the Governor's across-the-board reductions), contingent upon passage of a Constitutional Initiative by the voters. This would leave an annual appropriation of $487.4 million.

In order to effectuate the above reduction, the Governor proposes a statutory change (which would need to be enacted by the voters) which would allow the funding level for the Proposition 49 After-School Program to be reduced in years when the Legislature suspends the Proposition 98 guarantee. Under this proposal, the reduction to the After-School program would be proportional to the other Proposition 98 program reductions.

D. Federal 21st Century Community Learning Centers. The Governor's Budget originally slated federal support for the 21st Century Community Learning Centers Program at $125.3 million. However, since January, the Department of Finance submitted an April Letter indicating that unexpended funds from prior years ($40.4 million) will now be available to supplement the program on a one-time basis. Further, an additional $4.1 million is also being made available by the federal government to augment the program (pursuant to DOF's April Letter.) Combined with the January proposal, $169.7 million will be available for this program. Staff notes that since this program is funded solely with federal dollars, the funds may not be used to support or supplant any other state-funded programs.

Staff recommends that the committee: "Adopt the April Letter changes proposed by the Department of Finance."